HIGH COURT OF UTTARANCHAL AT NAINITAL

CRIMINAL MISC. APPLICATION NO. 1100 OF 2001

(Old No. 5246 of 1998)

1. Bal Krishan Bhatt,
2. Radha Krishan,

Both sons of late Sri Venketeshwar Bhatt, Both resident of Village Bamni, P.S. Badri Nath, District Chamoli at present R/o Village Pandukesar, P.S. Kohni, District-Chamoli.

.....Applicants.

Versus

1. State of U.P.
2. Superintendent of Police, Chamoli.
3. S.H.O. Police Station Badri Nath, District Chamoli.
4. Suresh Sharma, S/o Sri Dayaram Sharma, Quality Restorent, Badri Nath, P.S. Badrinath, District-Chamoli.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri R.P. Nautiyal, counsel for the applicant.

2. Present petition U/s 482 Cr.P.C. has been filed for quashing the Charge-sheet submitted by the Police Station Badrinath, District Chamoli U/s 506/427 I.P.C. on 09.10.1998 before the Court of Chief Judicial Magistrate.

3. One of the applicant Sri Bal Krishan Bhatt has already expired.

4. It will be open for the parties to contest the case before the sessions court. No interference under Section 482 of

the Cr.P.C. is required in view of the decision of the Apex Court in *Union of India v. Prakash P. Hinduja and another 2003 SCC (Cri) 1314.*

5. In ***Union of India Vs. Prakash P. Hinduja and another 2003 SCC (Cri) 1314,*** the Apex Court has held as under:

> "9. ...*The grounds on which the prosecution initiated against an accused can also be quashed by the High Court in exercise of power conferred by Section 482 CrPC has been settled by a catena of decisions of this Court rendered in R.P. Kapur v. State of Punjab AIR 1960 SC 866, Madhu Limaye v. State of Maharashtra (1977) 4 SCC 551, Municipal Corpn. Of Delhi v. Ram Kishan Rohtagi (1983) 1 SCC 1 and Raj Kapoor v. State (1980) 1 SCC 43. The matter was examined in considerable detail in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 and after review of practically all the earlier decisions, the Court in para 108 of the Report laid down the grounds on which power under Section 482 CrPC can be exercised to quash the criminal proceedings and basically they are: (1) where the allegations made in the FIR or complainant, even if they are taken at their face value and accepted in their entirely do not prima facie constitute any offence or make out a case against the accused, (2) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused, (3) where there is an express legal bar*

engrafted in any of the provisions of the Code of Criminal Procedure or the Act concerned to the institution and continuance of the proceedings. But this power has to be exercised in a rare case and with great circumspection.

10. The principal question which, therefore, requires consideration is whether the court can go into the validity or otherwise of the investigation done by the authorities charged with the duty of investigation under the relevant statutes and whether any error or illegality committed during the course of investigation would so vitiate the charge-sheet so as to render the cognizance taken thereon bad and invalid."

6. In view of the above, present 482 petition lacks merit and is dismissed. However, in case the applicant no. 2 applies for bail, the same shall be considered expeditiously.

7. Consequently, petition under Section 482 CrPC lacks merit and is dismissed. All the pending applications in this case are dismissed. No order as to costs.

(Rajesh Tandon, J.)

13.11.2006
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